

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific  
Gas and Electric Company for Approval of  
its Electric Vehicle Infrastructure and  
Education Program (U39E).

Application 15-02-009  
(Filed February 9, 2015)

**REPLY BRIEF OF  
THE OFFICE OF RATEPAYER ADVOCATES**

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## **TABLE OF CONTENTS**

<b><u>Title</u></b>	<b><u>Page</u></b>
I. INTRODUCTION AND SUMMARY OF RECOMMENDATIONS .....	1
A. THE COMMISSION SHOULD REJECT THE CHARGE/SAVE PROPOSAL .....	2
1. Procedural Status .....	2
2. The Settling Parties’ Justification For Commission Approval Must Fail .....	2
3. The Charge/Save Program Is Not Proportional to SDG&E’s VGI Program .....	4
4. One Size Does Not Fit All .....	6
B. THE COMMISSION SHOULD ADOPT THE “COMPLIANT” PROPOSAL AS MODIFIED BY THE NON-SETTLING PARTIES .....	8
1. A Smaller Program Would Not Defeat Data Collection Goals .....	8
2. PG&E’s Ownership Should Be Limited to the “Make Ready” Portion of the Infrastructure .....	9
3. Site Host Should Be The Customer of Record .....	11
4. The Commission Should Hold Workshops to Define Significant Program Issues .....	12
C. INTERVENORS WHO ACTIVELY PARTICIPATED IN THIS PROCEEDING DO NOT SUPPORT THE CHARGE/SAVE PROPOSAL .....	13
II. CONCLUSION .....	14

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Pursuant to Rule 13.11 of the California Public Utilities Commission's (Commission) Rule of Practice and Procedure (Rules) and Administrative Law Judge Farrar's instruction, the Office of Ratepayer Advocates (ORA) files this reply brief on Pacific Gas and Electric Company's (PG&E) application for approval of its electric vehicle (EV) infrastructure and education program.

**I. INTRODUCTION AND SUMMARY OF RECOMMENDATIONS**

The investor owned utilities filed their EV infrastructure applications in response to the State's goals of reducing greenhouse gas emissions, increasing the amount of energy produced from renewable sources, and increasing the amount of EV infrastructure to support one million zero emission vehicles (ZEVs) by 2020. When it reduced and modified San Diego Gas & Electric Company's (SDG&E) EV program, the Commission noted that to achieve these goals both the public and private sectors must be involved:

Utility ratepayers will not be able to, and should not, bear all the costs of encouraging EV infrastructure development and promoting the use of EVs. This highlights the need to balance all of the competing priorities, policies and programs, with just and

reasonable rates, and in a manner that does not negatively impact the private EVSE market.<sup>1</sup>

The Commission should apply these same guidelines to its consideration of the Charge Smart and Save proposal (Charge/Save proposal) set forth in the Settlement Agreement filed in this proceeding.

**A. The Commission Should Reject the Charge/Save Proposal**

**1. Procedural Status**

Opening briefs were filed by PG&E; the Alliance of Automobile Manufacturers; American Honda Motor Co., Inc; Center for Sustainable Energy; Coalition of California Utility Employees; Greenlots; the Greenlining Institute; Marin Clean Energy; Natural Resources Defense Council; Plug IN America; General Motors, LLC; Sierra Club; and Sonoma Clean Power(Settling Parties) and ORA; The Utility Reform Network (TURN); Vote Solar; Consumer Federation of California; Green Power Institute; the Joint Minority Parties; ChargePoint, Inc.; and the Electric Vehicle Charging Association. ORA's Reply Brief addresses mainly the issues raised by the Settling Parties Opening Brief which serves to reinforce the recommendations proposed in ORA's Opening Brief: the Commission should reject the Charge/Save proposal in favor of the "compliant" proposal as modified by the non-settling parties.<sup>2</sup>

**2. The Settling Parties' Justification For Commission Approval Must Fail**

In their opening brief, the Settling Parties<sup>3</sup> ask the Commission to adopt the Charge/Save proposal primarily because it is (1) modeled "in many cases verbatim" after

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<sup>1</sup> Decision Regarding Underlying Vehicle Grid Integration Application and Motion to Adopt Settlement Agreement Decision (D.) 16-01-045 p. 119-120.

<sup>2</sup> The non-settling parties in support of the modified compliant proposal are ORA, TURN, Chargepoint, EVCA, Technet, and Votesolar.

<sup>3</sup> PG&E, Alliance of Automobile Manufacturers, American Honda Motor Co., Inc., Center for Sustainable Energy, Coalition of California Utility Employees, Greenlots, the Greenlining Institute, Marin Clean Energy, Natural Resources Defense Council, Plug in America, General Motors LLC, Sierra Club,

*(footnote continued on next page)*

the San Diego Gas & Electric Company's (SDG&E) Vehicle to Grid Integration (VGI) and Southern California Edison Company's (SCE) Charge Ready settlements as modified by the Commission in D.16-01-045 and D.16-01-023, respectively, and (2) supported by 13 parties in this proceeding.<sup>4</sup> Neither of these justifications meet the standards of Pub. Util Code §§ 451, 740.3 and 740.8 and the balancing test of D.14-12-079.

When the Commission lifted the prohibition against utility ownership of electric vehicle infrastructure<sup>5</sup>, it adopted rules to govern utility ownership of EV infrastructure. These rules include:

- evaluating “any proposed utility program based on the facts of specific requests” and
- balancing the benefits of utility ownership of EV charging infrastructure against the competitive limitation that may result from that ownership.<sup>6</sup>

The Commission stated that it will apply the balancing test on a case-by-case basis and take a “detailed, tailored approach to assessing any proposed utility program based on the facts of specific requests, . . . .”<sup>7</sup>

The Commission affirmed its case-by-case approach to utility EV pilots when it denied ORA's motion to consolidate all three utility EV applications and did not adopt ORA's California Electric Vehicle Infrastructure Pilot (CalEVIP).<sup>8</sup>

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and Sonoma Clean Power Authority.

<sup>4</sup> Opening Brief of PG&E, Alliance of Automobile Manufacturers, American Honda Motor Co., Inc., Center for Sustainable Energy, Coalition of California Utility Employees, Greenlots, the Greenlining Institute, Marin Clean Energy, Natural Resources Defense Council, Plug in America, General Motors LLC, Sierra Club, and Sonoma Clean Power Authority, (Settling Parties' Opening Brief) p. 3.

<sup>5</sup> D.14-12-079.

<sup>6</sup> D.14-12-079, p. 8.

<sup>7</sup> Id.

<sup>8</sup> May 28, 2015 Joint Commissioner and Administrative Law Judge's Ruling on Two Motions, p. 8.

In addition to these rules, the Charge/Save proposal must also comply with certain Public Utilities Code sections: all charges the ratepayers pay must be just and reasonable<sup>2</sup>; the program must be in the ratepayers' interest<sup>10</sup>; and the program must provide direct benefits specific to ratepayers as safer, more reliable or less costly electric service and any one of the criteria listed in Pub. Util. Code Section 740.8(b).<sup>11</sup>

To justify their request for Commission approval of the Charge/Save proposal, the Settling Parties point to (1) the reduced scale of the Charge/Save proposal compared to PG&E's original application, which requested \$654 million, and how that compares to SDG&E's VGI program; (2) characteristics regarding competitively neutral choice of technology, load management, education and outreach, the role of an advisory committee, and data assessment and reporting requirements that are similar to the SDG&E and SCE programs that the Commission approved; and (3) the same utility ownership and site host choice of technology provisions that the Commission approved in its decision modifying SDG&E's VGI program.<sup>12</sup> But replicating the details of other utilities' proposals is not the same as demonstrating that the Charge/Save proposal meets statutory and Commission requirements.

### **3. The Charge/Save Program Is Not Proportional to SDG&E's VGI Program**

The Settling Parties claim that the Charge/Save proposal reduced PG&E's Electric Vehicle Infrastructure and Education Program (original proposal) from \$650 million to

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<sup>2</sup> Pub. Util. Code Section 451.

<sup>10</sup> Pub. Util Code Section 740.3(c).

<sup>11</sup> Pub. Util Code Section 740.8(a) and (b); Pub. Util Code Section 740.8(b) lists the following: (1) Improvements in energy efficiency of travel, (2) Reduction of health and environmental impacts from air pollution, (3) Reduction of greenhouse gas emissions related to electricity and natural gas production and use, (4) Increased use of alternative fuels, (5) Creating high-quality jobs or other economic benefits, including in disadvantaged communities identified pursuant to Section 39711 of the H&S Code.

<sup>12</sup> Settling Parties' Opening Brief p. 4-5.

\$160 million and that this reduction is proportional to the size and cost of SDG&E's program which the Commission approved in D.16-01-045.

SDG&E initially proposed a vehicle -to-grid integration program to own, install and maintain 5,500 charging stations at 550 sites at an cost of \$103 million to be recovered from SDG&E ratepayers over 22 years. After evidentiary hearings, SDG&E and many of the same parties<sup>13</sup> who joined the Charge/Save proposal settlement agreement parties developed a settlement that addressed some parties' concerns about the VGI Program's effect on customer choice and market innovation but did not alter the size and cost of the program. But in considering SDG&E's EV program, the Commission rejected both SDG&E's original proposal and the settlement agreement. The Commission scaled down SDG&E's program from \$103 million to deploy 550 site installations and 5,500 charging stations over a four to five year time period to \$45 million to deploy 350 site installations with approximately 3,500 charging stations over a three-year sign-up period, with installations allowed to continue for one additional year.<sup>14</sup>

When it reduced the size of SDG&E proposal, the Commission stated that it:

did not want to approve and authorize a pilot project that would cost \$103 million without being able to timely review and evaluate the progress of the VGI program. Also, it would be foolhardy to authorize a pilot project of this amount, using ratepayer money, without some assurance that EV drivers will be using these site installations and charging

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<sup>13</sup> The parties who executed the SDG&E settlement were: San Diego Gas & Electric Company, Environmental Defense Fund, Coalition of California Utility Employees, Natural Resources Defense Council, The Greenlining Institute, ChargePoint, Inc., Plug In America, Smart Grid Services, Siemens AG, Green Power Institute, American Honda Motor Co., Inc., General Motors LLC, NRG EV Services LLC, Sierra Club, Alliance of Automobile Manufacturers, KnGrid, LLC, Center for Sustainable Energy, and CalStart.

<sup>14</sup> D.16-01-045, Finding of Fact 66, p. 171.

stations on a frequent basis, and that such a deployment will contribute materially to the widespread adoption of EVs for everyday transportation.<sup>15 16</sup>

There's no dispute that the Charge/Save proposal is smaller than PG&E's original proposal. But it is still larger than the 10% pilot-sized program the Assigned Commissioner and Administrative Law Judges (ALJs) directed PG&E to propose in their September 4, 2015 Scoping Memo.<sup>17</sup> And the Commission's concerns about monitoring the program to see if the charging stations are being used are as applicable to PG&E's program as they were to SDG&E's. Further, as TURN points out, PG&E customers are facing significant rate increases in the coming years and the cost increases of the Charge/Save proposal can only exacerbate the affordability problem.<sup>18</sup>

#### **4. One Size Does Not Fit All**

The Settling Parties argue that the Charge/Save proposal seeks to apply the same or similar concepts adopted in SDG&E's and SCE's programs.<sup>19</sup> But they fail to recognize that PG&E's service territory is very different from that of SDG&E and SCE. For example, neither SDG&E's nor SCE's service territories include an area like San Francisco, which as TURN notes, "ranks second in the nation in the availability of Level 2 and fast chargers, both in terms of the number of chargers per resident and the number of chargers per new vehicle sold."<sup>20</sup> ChargePoint recalls that PG&E itself testified that more than 15 companies provide EV charging equipment and services in

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<sup>15</sup> D.16-01-045, p. 103.

<sup>16</sup> ORA and TURN objected to the size and cost of SDG&E's and SCE's programs. The Commission's reduction of these two programs belies the Settling Parties' assertion that the Commission rejected these arguments.

<sup>17</sup> Joint Assigned Commissioner and Administrative Law Judges' Scoping Memo and Ruling, p. 7.

<sup>18</sup> TURN Opening Brief, p. 39.

<sup>19</sup> Settling Parties' Opening Brief, p. 5.

<sup>20</sup> Exh. 59, p. 4 (Borden/TURN) (citing to Electric Vehicle Charging Association (EVCA) 2015 Report of California's Electric Vehicle Charging Industry, October 2015, p. 2).



Northern and Central California.<sup>21</sup> According to PlugShare, 3,000 commercial L2 charging stations have already been deployed in PG&E's service territory. Direct Current Fast Chargers (DCFCs) have also benefitted from private investment. As TURN points out, PG&E witness Jana Corey testified that "around 270 DCFCs have been deployed in PG&E's service territory to date."<sup>22</sup> In analysis conducted for the California Energy Commission, the National Renewable Energy Laboratory (NREL) estimated that California would need 275 DCFCs for 2020.<sup>23</sup>

Private investment, not ratepayers, has paid for most of the Level 2 (L2) and DCFC charging stations in PG&E's service territory.<sup>24</sup> Given the level of private investment in EV infrastructure, the Commission should exercise the same caution it used in reducing SDG&E's program to the Charge/Save proposal and adopt the "compliant" proposal as modified by the non-settling parties.

Even the elements that allegedly distinguish the Charge/Save proposal from SDG&E's VGI and SCE's Charge Ready programs are neither innovative nor feasible. For example, the Charge/Save proposal provides for a time of use (TOU) Rate-to-Driver and Rate-to-Host option. But as ChargePoint observes, the Commission opened a Rulemaking to establish a methodology for setting future TOU rates.<sup>25</sup> The rulemaking anticipates a decision on methodology in September 2016.<sup>26</sup> The Commission should not authorize PG&E's proposed EV TOU rate until it has fully established a methodology for setting TOU rates. Similarly, although it lists load management as a program element, the Settling Parties testified that the Charge/Save proposal's load management plan will

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<sup>21</sup> ChargePoint Opening Brief, p. 18.

<sup>22</sup> TURN's Opening Brief, p. 29.

<sup>23</sup> Exh. 48, p. 3 (using the "home dominant" scenario).

<sup>24</sup> TURN Exh. 47.

<sup>25</sup> ChargePoint Opening Brief, p. 58; R.15-12-012, Scoping Memo and Ruling of Assigned Commissioner and Assigned ALJ (May 3, 2016) p. 1.

<sup>26</sup> Id. p. 17.

have to be further developed at a future date. In contrast, the non-settling parties proposed that every participating site host be required to provide a load management plan that conforms to “best practices.” These practices could be developed through a stakeholder process.

ORA recommends the Commission once again reduce the size of this PEV infrastructure program. The Commission should reject the Charge/Save proposal and adopt the “compliant” proposal as modified by the non-settling parties.

**B. The Commission Should Adopt the “Compliant” Proposal as Modified by the Non-Settling Parties**

As ORA, TURN, ChargePoint, the Joint Minority Parties, and Vote Solar all note in their opening briefs, the “compliant” proposal is 10% of PG&E’s original proposal and within the limits set by the Assigned Commissioner and ALJs. Under the compliant proposal, PG&E would provide infrastructure for up to 2,500 L2 charging stations and 10 DCFC charging stations with a budget of \$87 million. The deployment scale of the “compliant” proposal would be of comparable size to both the SCE and SDG&E programs that the Commission has already approved.<sup>27</sup> On the other hand, the Charge/Save program (\$160 million budget to install, own, and maintain 7,500 L2 ports and 100 DCFC) could result in as much as five times the EVSE deployment of SCE’s program and twice the EVSE deployment of SDG&E’s program. Also, the non-settling parties’ modifications would help the “compliant” proposal conform to D.14-12-079’s balancing test and ensure that its costs are just and reasonable.

**1. A Smaller Program Would Not Defeat Data Collection Goals**

Like SDG&E’s and SCE’s EV programs, the Charge/Save proposal is a pilot program designed to “collect and evaluate data along the way to determine program

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<sup>27</sup> D.16-01-023 approved of SCE’s \$22 million, 1,500 charging station PEV program and D.16-01-045 approved a \$45 million, 3,500 charging station plan for SDG&E.

effectiveness and allow for modifications.”<sup>28</sup> In other words, the primary goal of this initial-phase program is not to provide sufficient coverage for all EV drivers in PG&E’s service territory, but to verify what methods do or do not work before implementing a full-scale program.<sup>29</sup> Some of the settling parties warn that “if the commission restricts the number of charging stations that can be deployed in the immediate future, California will likely fall short of meeting its goal of deploying infrastructure to support one million zero-emission vehicles by 2020.”<sup>30</sup> This statement implies that the Settling Parties’ primary motivation is to simply install the greatest possible number of charging stations as soon as possible, regardless of whether providing additional charging stations provides any additional benefit for data analysis. This mindset confuses the nature of the initial-phase program that was laid out in the Scoping Memo and treats this Phase 1 program as if there were no Phase 2 program to follow. While Ms. Corey points out the difficulty of collecting data in a territory the size of PG&E’s,<sup>31</sup> it is not clear why PG&E would require additional data points on a per capita basis in order to verify the efficacy of its unique deployment model.

## **2. PG&E’s Ownership Should Be Limited to the “Make Ready” Portion of the Infrastructure**

The Settling Parties argue that the Commission should approve the Charge/Save proposal because it mimics the utility ownership model the Commission approved for SDG&E in D.16-01-045.<sup>32</sup> But as ChargePoint observes, PG&E has failed to identify or analyze the Charge/Save program’s anticompetitive effects on a case specific basis or

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<sup>28</sup> AC & ALJ Scoping Memo and Ruling, p 7.

<sup>29</sup> TURN Opening Brief, p. 18.

<sup>30</sup> Response of Public Interest, Automaker, and Labor Groups to Motion to Strike Portions of PG&E’s Supplemental Testimony, p. 1.

<sup>31</sup> Tr. p. 118 ll. 11-26 (PG&E/Corey).

<sup>32</sup> Settling Parties’ Opening Brief, p. 5.

independently case-specific modifications that would address those impacts.<sup>33</sup> Further, TURN points out that the three reasons<sup>34</sup> PG&E offers to justify its ownership of the infrastructure can all be realized in a make ready model. In fact, PG&E anticipates contracting at least operations and maintenance to third parties or to the companies who respond the PG&E's Requests for Proposal (RFP) to install equipment or network services.

Q: And will the electric vehicle service providers install the charging stations?

A: We haven't exactly determined who will get the installation contract. But to the extent that an energy service, an EV service provider comes in with a comprehensive proposal to do both equipment and the installation, we would consider that favorable.<sup>35</sup>

Q: So what is special about PG&E owning this, owning the charging stations, if these individual components can all be contracted out?

A: We think that by providing a turnkey solution where we bundle up all the operations, maintenance, purchasing equipment, installation services, that we are providing a value-added service to the site host. And by virtue of the fact that these providers will be working under contract with PG&E, we believe that safe, reliable, well maintained, and quality equipment will be onsite<sup>36</sup>.

It remains unclear how the services Ms. Corey lists would have added value through the mere fact that they will be contracted by PG&E instead of by the site host.

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<sup>33</sup> ChargePoint Opening Brief p. 23.

<sup>34</sup> The three reasons are to (1) make it easy for the site host to say yes to the infrastructure; (2) provide safe, reliable equipment that PG&E can maintain and that provides fair pricing for the drivers; (3) manage the grid. Tr. p. 68 ll. 2-22 (PG&E/Corey).

<sup>35</sup> Tr. P 286-287, ll. 24-28, ll. 1-5 (PG&E/Corey).

<sup>36</sup> Tr. p. 288, ll. 9-22 (PG&E/Corey).

Additionally, ORA agrees with the Electric Vehicle Charging Association (EVCA) that utility ownership does not confer any benefit in terms of allowing the communication of TOU rates and facilitating grid benefit since EVSEs that are owned by the site hosts would have the same built-in capabilities as EVSEs owned by a utility.<sup>37</sup>

Finally, TURN observes, Ms. Corey admitted that the benefits of utility ownership claimed by PG&E “safety, reliability, operations and maintenance” could be accomplished without utility ownership.<sup>38</sup> Thus, to minimize costs and ratepayer risk, ORA recommends that PG&E’s ownership be limited to the make-ready portion of the infrastructure.<sup>39</sup>

ORA recognizes that MuDs are a currently underserved market segment and that it is difficult to coordinate the installation of EVSEs at those locations. As Ms. Corey stated during the hearings, the MuD market is not well served due to tenant/landlord issues. For that reason, ORA recommends that the Commission limit PG&E’s ownership of EVSE to only MuDs and disadvantaged communities.

### **3. Site Host Should Be The Customer of Record**

ORA agrees with Chargepoint in that the relationship between the site host and the customer of record is needlessly complicated.<sup>40</sup> If an EV driver encounters an issue with an EVSE that was provided under the site-to-driver option, the driver would have to contact the “customer of record,” who is not necessarily the site host.<sup>41</sup> This can create an unnecessary and potentially confusing burden for both the EV driver and the site host. As Ms. Corey stated during hearings, making the service provider the customer of record would require an EVSP to take additional steps to make their equipment accessible to any

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<sup>37</sup> EVCA Opening Brief, p. 15.

<sup>38</sup> TURN Opening Brief, p. 37.

<sup>39</sup> Make ready infrastructure includes one or more service drops, panels and junction boxes, as well as electrical conduit, transformers, metering and electrical wiring which can support at least one EVSE.

<sup>40</sup> Chargepoint Opening Brief, p. 40.

<sup>41</sup> Tr. p. 169-170, ll. 22-28, ll. 1-9 (PG&E/Corey).

EV driver.<sup>42</sup> However, PG&E is unsure what requirements to propose in order to allow for a “seamless” experience, instead leaving the matter to be resolved by the EVSPs.<sup>43</sup> Additionally, it is not clear what benefit is provided by having a third-party network provider be the customer of record. The only tasks the network provider would perform as customer of record under the rate-to-driver option is billing drivers a TOU rate, being billed at a TOU rate by PG&E, and serving as a point of contact for EV-driving customers. However, the network provider will not be able to manage the parking at the site, as that will probably be the role of the site host. Nor will the service provider own and maintain the EVSE, as that will be the responsibility of PG&E in the Charge/Save proposal. Therefore, the role of customer of record would be better served by the site host, who can then bill EV drivers according to a rate structure of their devising.

#### **4. The Commission Should Hold Workshops to Define Significant Program Issues**

The Settling Parties state that the Charge/Save proposal includes a Program Advisory Council (PAC) similar to that in SDG&E’s program.<sup>44</sup> During the hearings, the Settling Party panel witnesses left several key aspects of the Charge/Save proposal to the discretion of a PAC. This includes reviewing the criteria for qualifying a site,<sup>45</sup> EVSE procurement process,<sup>46</sup> and the possible co-benefits of DCFC for disadvantaged communities.<sup>47</sup> But the Charge/Save proposal does not give the PAC any real authority.<sup>48</sup> TURN points out that its “experience with the other two utility infrastructure program PACs, while valuable, have shown the limitations of these informal groups to implement

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<sup>42</sup> Tr. p. 168-169, ll. 17-28, ll. 1-12 (PG&E/Corey).

<sup>43</sup> Tr. p. 169, ll. 13-21 (PG&E/Corey).

<sup>44</sup> Settling Parties’ Opening Brief, p. 5.

<sup>45</sup> Tr. p. 69, ll. 11-22 (PG&E/Corey).

<sup>46</sup> Tr. p. 79, ll. 11-23 (PG&E/Corey).

<sup>47</sup> Tr. pp. 112-113, ll. 27-28, ll. 1-16 (Greelining/ Espino).

<sup>48</sup> Charge Smart and Save Settlement Agreement, Appendix A.

specific recommendations by outside parties.”<sup>49</sup> ORA agrees. As a participant in these other PACs, ORA notes that these informal groups rarely provided a cohesive sense of guidance to the utility on major program decisions, such as providing guidance on determining participation payments in SDG&E’s program.

Because so many issues have been either omitted from the Charge/Save proposal or left to be resolved by the PAC, ORA recommends the Commission schedule workshops to further explore these topics. The Commission could then provide direction based on the facts and opinions discussed at the workshops.

**C. Intervenor Who Actively Participated in This Proceeding  
Do Not Support the Charge/Save Proposal**

The Settling Parties also argue that 13 parties support the Settlement Agreement’s Charge/Save proposal. But as ChargePoint and TURN have remarked, the Settlement Agreement does not resolve contested issues because only one of the signatories raised material issues to be resolved and the Settlement Agreement is not the product of arms’ length negotiations.<sup>50</sup> ORA agrees and adds that the Commission has rejected settlements where the sponsors do not represent all affected interests.<sup>51</sup> Representatives of important constituencies who actively participated in this proceeding such as the ratepayers who will pay for this program; low income and underserved communities who should benefit from the program; leading network services providers; site hosts and the tech industry and alternative energy advocates have all opposed the Settlement Agreement and proposed modifications to PG&E’s “compliant” proposal. The Commission should reject the Charge/Save proposal and adopt the “compliant” proposal as modified by the non-settling parties.

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<sup>49</sup> TURN Opening Brief, p. 62-63.

<sup>50</sup> ChargePoint Opening Brief, p. 9-12; TURN Opening Brief, p. 5-6.

<sup>51</sup> D.09-12-045.

## II. CONCLUSION

The Commission should reject the Charge/Save proposal in favor of the “compliant” proposal as modified by the non-settling parties.

Respectfully submitted,

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